

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-1380

September Term, 2012

NTSB-SM-3467

Filed On: August 13, 2013

Richard C. Bartel,

Petitioner

v.

National Transportation Safety Board and
Federal Aviation Administration,

Respondents

**PETITION FOR REVIEW FROM AN ORDER OF THE
NATIONAL TRANSPORTATION SAFETY BOARD**

BEFORE: Rogers, Brown, and Kavanaugh, Circuit Judges

J U D G M E N T

This petition for review of an order of the National Transportation Safety Board (Board) was considered on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the petition be denied. This court has upheld the validity of the cardiovascular regulations that underlie this petition. See Schwartz v. Helms, 712 F.2d 633 (D.C. Cir. 1983). Moreover, the Board's decision to dismiss Bartel's petition under the doctrine of res judicata was not "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." See Dickson v. NTSB, 639 F.3d 539, 542 (D.C. Cir. 2011) (citation omitted); see also Sheptock v. Fenty, 707 F.3d 326, 330 (D.C. Cir. 2013) (citation omitted) (final judgment on the merits "precludes relitigation in a subsequent proceeding of all issues arising out of the same cause of action" between the same parties, "whether or not the issues were raised in the first trial.") Finally, because the decision whether to grant a special issuance medical certificate lies within the sole discretion of the Federal Aviation Administration, the Board has no authority to review the denial of such a certificate.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution

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of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam